

SENATE BILL 1133

By Herron

AN ACT to amend Tennessee Code Annotated, Title 8; Title 9; Title 29, Chapter 26 and Title 63, Chapter 6, Part 9, to provide publicly funded professional liability coverage for volunteer physicians.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. This Act shall be known and may be cited as the "Publicly Funded Professional Liability Coverage for Volunteer Physicians Act".

SECTION 2. The general assembly hereby finds and declares that:

(a) It is in the interests of this state and its citizens to encourage physicians to voluntarily provide health care services without compensation at medical clinics or health care facilities that provide care for free or for a nominal charge.

(b) The costs of professional liability and the potential exposure to the costs of professional liability claims acts as a deterrent to physicians who wish to voluntarily provide health care services without compensation.

(c) It is, therefore, the purpose of this act to provide for publicly funded professional liability insurance coverage for physicians voluntarily providing health care services without compensation at medical clinics or health care facilities that provide care for free or for a nominal charge.

SECTION 3.

(a) The State shall arrange for or purchase professional liability insurance coverage with limits of one million dollars (\$1,000,000) per individual claim and three million dollars (\$3,000,000) per total claims that arise from the same occurrence for a physician who meets coverage criteria. The insurance coverage shall be paid for by the State from a fund established by the department of health, upon an application by the physician, which application shall include acknowledgment and documentation that the physician meets the criteria set forth in subsection (b). Such professional liability insurance coverage shall cover medical malpractice claims arising out of any act or omission resulting from the rendering of health care services provided voluntarily without compensation at any medical clinic or health care facility that provides health care services for free or for a nominal charge in this State and that is registered as set forth in subsection (d). Such professional liability insurance coverage shall be obtained from a medical liability insurer authorized to provide such insurance in this State or shall be provided directly by the State under a state-sponsored liability insurance program.

(b) In order to qualify for professional liability insurance coverage described in subsection (a), a physician must:

(1) Have an active medical license in this State to provide health care services.

(2) Voluntarily provide, without compensation, health care services within the scope of the physician's license; and

(3) Voluntarily provide such health care services at a medical clinic or health care facility in this State that provides health care services free or for a nominal charge and that is registered as set forth in subsection (d).

(c) A physician who meets the criteria in subsection (b) shall be immune from civil liability for any amount in excess of the applicable limits of insurance coverage set

forth in subsection (a) in any suit for civil damages for any act or omission resulting from the rendering of such services unless the act or omission constitutes:

(1) willful or wanton misconduct; or

(2) gross negligence.

(d) The department of health is authorized to adopt such rules and regulations as it may determine to be necessary to provide for registration of medical clinics or health care facilities that provide health care services for free or for a nominal charge under this act, provided such rules and regulations shall require that such medical clinics or health care facilities post in a conspicuous place on their premises an explanation of the immunity from civil liability for physicians for amounts in excess of applicable limits of insurance coverage set forth in subsection (a) in any suit for civil damages for any act or omission resulting from the rendering of health care services unless the act or omission constitutes:

(1) willful or wanton misconduct; or

(2) gross negligence

SECTION 4. If a court holds any provision of this act to be invalid, such invalidity shall not affect the remaining provisions of this act, and to this end, the provisions of this Act are hereby declared several.

SECTION 5. This Act shall become effective on becoming a law, the public welfare requiring it.